UNITED STATES PATENT AND TRADEMARK OFFICE

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10/622,673	07/17/2003	Eric C. Anderson	18602-06754	3617

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EXAMINER
LE, DIEU MINH T

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-32* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-20* is/are allowed.

6)☒ Claim(s) *21-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *10/20/03*.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

Reissue Applications

Part III DETAILED ACTION

Specification

1.   This Office Action is in response to the Reissue application 10/622,673 filed on 07/17/03.

2.   The pending claims are as follows: original claims 1-20 (from U.S. patent 6,263,453 as issued); as well as new claims 21-32, presented for examination.

3.   The information disclosure statement (IDS) submitted on 10/20/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

4.   Examiner notes that the Reissue Patent Application Transmittal, item 8, indicates that the Original U.S. Patent has been offered for surrender and is indicated to be submitted as part of the application. However, that item has not reached the file and further, the item is no longer required. See MPEP 1416, 37 CFR 1.178(a). No further action is needed on Applicant's part.

5.　　　Applicant is reminded of the continuing obligation under 37 CFR 1.178(b), to timely apprise the Office of any prior or concurrent proceeding in which Patent No. 6,263,453 is or was involved. These proceedings would include interferences, reissues, reexaminations, and litigation.

Applicant is further reminded of the continuing obligation under 37 CFR 1.56, to timely apprised the Office of any information which is material to patentability of the claims under consideration in this reissue application.

These obligations rest with each individual associated with the filing and prosecution of this application for reissue. See also MPEP § 1404, 1442.01 and 1442.04.

6.　　　The amendment filed 07/17/2003 proposes amendments to claims 21-32 that do not comply with 37 CFR 1.173(b), which sets forth the manner of making amendments in reissue applications. A supplemental paper correctly amending the reissue application is required.

The presentation of <u>the insertions or deletions</u> as part of the original reissue specification is an amendment under 37 CFR 1.173(b). An amendment of the reissue application made at the time of filing of the reissue application must be made in accordance with 37 CFR 1.173(b)-(e) and (g); see MPEP § 1453. Thus, as required by 37 CFR 1.173(c), an amendment of the claims made at the time of filing of a reissue application must include a separate paper setting forth the status of all claims (i.e., pending or canceled), and an explanation of the support in the disclosure of the patent

for the changes made to the claims. Note in particular, newly added claims, beyond those present in the original issued patent, must be underlined in their entirety.

7.   Applicant is notified that any subsequent amendment to the specification and/or claims must comply with 37 CFR 1.173(b). In addition, when any substantive amendment is filed in the reissue application, which amendment otherwise places the reissue application in condition for allowance, a supplemental oath/declaration will be required. See MPEP § 1414.01.

8.   Claims 21-32 are rejected under 35 U.S.C. 251 as being an improper recapture of broadened claimed subject matter surrendered in the application for the patent upon which the present reissue is based. See *Pannu v. Storz Instruments Inc.*, 258 F.3d 1366, 59 USPQ2d 1597 (Fed. Cir. 2001); *Hester Industries, Inc.* v. *Stein, Inc.*, 142 F.3d 1472, 46 USPQ2d 1641 (Fed. Cir. 1998); *In re Clement,* 131 F.3d 1464, 45 USPQ2d 1161 (Fed. Cir. 1997)*; Ball Corp.* v. *United States,* 729 F.2d 1429, 1436, 221 USPQ 289, 295 (Fed. Cir. 1984). A broadening aspect is present in the reissue which was not present in the application for patent. The record of the application for the patent shows that the broadening aspect (in the reissue) relates to claim subject matter that applicant previously surrendered during the prosecution of the application. Accordingly, the narrow scope of the claims in the patent was not an error within the meaning of 35 U.S.C. 251, and the broader scope of claim subject matter surrendered in the

application for the patent cannot be recaptured by the filing of the present reissue

application.

U.S. patent 6,263,453.	Reissue 10/622,673

1. A system for preventing damage to media files within a digital camera, comprising:
 	
  a power manager for detecting a power failure in said digital camera;
 	
  an interrupt handler for responsively incrementing a powerfail counter for incrementally recording the number of instances of power failure following said power failure; and
 	
  a memory driver for performing a memory access operation and *subsequently evaluating said powerfail counter to determine whether said power failure occurred during said memory access operation;*
 	
  said memory driver repeating said memory access operation whenever said memory driver determines that said power failure occurred during said memory access operation.
	21. (New) A system for preventing damage to media files within a digital image capture device, comprising:
	
	a sensor for detecting a power loss in the digital image capture device; and
	
	a processor coupled to the sensor for performing memory access operations, the processor adapted to repeat a memory access operation in response to determining that the sensor detected a power loss during the memory access operation.

6. A method for preventing damage to media files within a digital camera, comprising the steps of:
 	
  detecting a power failure within said digital camera;
 	
  incrementing a powerfail counter for incrementally recording the number of instances of power failure in response to said power failure;
 	
  evaluating said powerfail counter before and after performing a memory access operation to determine whether said power failure occurred during said memory access operation; and
 	
  repeating said memory access operation whenever said evaluating step determines that said power failure occurred during said memory
	25. (New) A method of preventing damage to media files within a digital image capture device, the method comprising:
	
	detecting a power loss in the digital image capture device during a memory access operation to a media file; and
	
	repeating the memory access operation to the media file.

access operation.	
11. A computer-readable medium comprising program instructions for preventing damage to media files within a digital camera by performing the steps of: detecting a power failure within said digital camera; *incrementing a powerfail counter for incrementally recording the number of instances of power failure in response to said power failure;* *evaluating said powerfail counter before and after performing a memory access operation to determine whether said power failure occurred during said memory access operation;* and repeating said memory access operation whenever said evaluating step determines that said power failure occurred during said memory access operation.	29. (New) A computer-readable medium having stored thereon instructions which, when executed by a processor in a system for preventing damage to media files within a digital image capture device, cause the processor to perform the operations of: detecting a power loss in the digital image capture device during a memory access operation to a media file; and repeating the memory access operation to the media file.
16. A system for preventing damage to media files within a digital camera, comprising: means for detecting a power failure within said digital camera; *means for incrementing a powerfail counter for incrementally recording instances of power failure in response to said power failure;* *means for evaluating said powerfail counter before and after performing a memory access operation to determine whether said power failure occurred during said memory access operation; and* means for repeating said memory access operation whenever said means for evaluating determines that said power failure occurred during said memory access operation.	

From the above table:

The limitations of:

-*"an interrupt handler for responsively incrementing a powerfail counter for incrementally recording the number of instances of power failure following said power failure"* and;

-*"evaluating said powerfail counter before and after performing a memory access operation to determine whether said power failure occurred during said memory access operation"*

Present in original claims 1, 6, 11, and 16 of U.S. patent 6,263,453 are omitted in new claims 21 or 25, or 29 in reissue 10/622,673.

In addition, regarding to the Preliminary amendment filed on April 29, 1999 in application 09/301,869 [now U.S. patent 6,263,453] in Applicant's remarks [pages 7-9];

Applicants argued that:

" now occurs in Claim 1. For instance, Claim I now includes "an interrupt handler for responsively incrementing a powerfail counter for incrementally recording the number of instances of power failure following said power failure". None of the references taken singly or in combination teach the counting of the number of power failures for subsequent circuit use so as to commence other circuit operations, as set forth in the present application. Claims 6, 11, and 16 have been similarly amended and are submitted to also be allowable over the references and rejections of record".

For the above reasons, claims 21- 32 in the reissue 10/622,673 are rejected under 35 U.S.C. 251.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly
claiming the subject matter which the applicant regards as his invention.

9.   Claims 25-28 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

As per claims 26-28, "the system of claim 25" is improper since claim 25 is a method

claim. Clarification is required.

Double Patenting Rejections

10.   The nonstatutory double patenting rejection is based on a judicially created

doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent

and to prevent possible harassment by multiple assignees.   A nonstatutory

obviousness-type double patenting rejection is appropriate where the conflicting claims

are not identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated

by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29

USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422

F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163

USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d)

may be used to overcome an actual or provisional rejection based on a nonstatutory

double patenting ground provided the conflicting application or patent either is shown to

be commonly owned with this application, or claims an invention made as a result of

activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a

terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with

37 CFR 3.73(b).

11. Claims 21-32 are rejected under the judicially created doctrine of obviousness-

type double patenting as being unpatentable over claims 1-4 of U.S. patent 5,935,259.

Although the conflicting claims are not identical, they are not patentably distinct from

each other because the claimed subject matter contains obvious modifications to

previous claims 1-4 of U.S. patent 5,935,259. As to claims 21, 25, and 29; these

claims include limitations of: a sensor [power manager] for detecting a power

loss/failure, processor [memory driver] for performing memory access operation for

preventing damage to media files within a digital image, which already included in

claims 1-4 of U.S. patent 5,935,259. It is well settled that the omission of an element and its function [i.e., an interrupt handler] is an obvious expedient if the remaining elements perform the same function as before. Therefore, omitting various elements from the previous claimed subject matter would have been obvious to one of ordinary skill in the art in this case since the remaining elements do in fact perform the same functions as before. Elimination/Changing of an element or its function will not serve as a basis for patentability.

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13.   Claims 21-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamada (U.S. 5,079,585) in view of Byers et al. (U.S. 5,664,089 hereafter referred to as Byers).

As per claim 21:

Yamada substantially teaches the invention. Yamada teaches:

- A system for preventing damage to media files within a digital image capture device (i.e., ***microcomputer*** [col. 3, line 39] [abstract, col. 1, lines 5-9; and col. 7, claim 1];

- a sensor (i.e., detection mechanism) for detecting a power loss in the digital image capture device [abstract, fig. 1; col. 2, lines 20-31 and col. 7, claim 1];

- a processor (i.e., ***microcomputer***) coupled to the sensor for performing memory access operation [col. 2, line 58 through col. 3, line 8];

- the sensor detected a power loss during the memory access operation [fig. 1; col. 2, lines 20-31; col. 4, lines 17-36; and col. 7, claim 1].

Yamada does not explicitly address:

- the processor adapted to repeat a memory access operation.

However, Yamada does disclose capability of:

- a data storage unit of a camera which includes a power failure protection system which ensures that data written into the data storage unit, during the occurrence of power failure [abstract, col. 1, lines 5-9; and col. 7, claim 1] comprising:

- data reading and writing successively to and from memory (i.e., ***continuously access memory operation***) in supporting the camera data operation via data counting process [col. 4, lines 5-43 and col. 7, claim 1].

In addition, Byers explicitly teaches:

- A power loss detection and recovery circuit for detecting voltage degradation or voltage loss of one or more voltage sources supplying specified circuitry, and for disabling circuit activity within an associated portion of the specified circuitry when the voltage source supplying that associated portion degrades or fails, the power loss detection and recovery [abstract, col. 1, lines 9-15 and col. 15, claim 1] comprising:

- circuitry adapted to store data signals, data processing means for reading and writing stored data signals [col. 15, claim 1] in supporting the continuing (i.e., ***data storage unit of a camera which includes a power failure protection system***) within the system operation as well as the redundant circuitry under power domain [col. 3, lines 65-68].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to first realizing Yamada's data reading and writing successively to and from memory (i.e., ***continuously access memory operation***) in supporting the camera data operation via data counting process as being the *processor adapted to repeat a memory access operation* as claimed by Applicant. This is because

Yamada's data storage unit of a camera which includes a power failure protection

system explicitly performed data failure detection and recovery (i.e., _**fail-over**_) from data

storage and/or redundant memory via _**continuously access memory operation**_

functionality. By utilizing these capabilities, the image capture device (i.e., _**camera**_) can

be directed or redirected promptly and functioned properly during failure recovery

process in supporting the system operation; second, by applying the circuitry adapted to

store data signals, data processing means for reading and writing stored data signals in

supporting the continuing (i.e., data storage unit of a camera which includes a power

failure protection system) within the system operation as well as the redundant circuitry

under power domain as taught by Byers in conjunction with the data storage unit of a

camera which includes a power failure protection system which ensures that data

written into the data storage unit, during the occurrence of power failure as taught by

Yamada, the data detection and recovery image system within computing memory data

storage can enhance its operation performance, more specifically to ensuring the error

detected, corrected, and replaced in proper and efficient manner via its _**continuously**_

**access memory operation** functionality.

This modification would have been obvious because a person having ordinary

skill in the art would have been motivated to do so to improve the recovery system or

multi-component processors, and/or fault-tolerant system operation availability and

network/system performance therein with a mechanism to enhance the data

connectivity, data debugging, data reliability, and data throughput which eventually will

increase its performance, such as data throughput between internal and external devices.

As per claim 22:

Yamada further teaches:

- a counter adapted to maintain a power loss count in response to the sensor, wherein the processor determines that the sensor detected a power loss by evaluating a counter [col. 5, lines 5-16 and lines 57-68; and col. 6, lines 1-10].

As per claim 23:

Yamada further teaches:

- wherein the counter increments each time a power loss occurs in the system [col. 5, lines 5-16 and lines 57-68; and col. 6, lines 1-10].

In addition, Byers explicitly teaches:

- A power loss detection and recovery circuit for detecting voltage degradation or voltage loss of one or more voltage sources supplying specified circuitry, and for disabling circuit activity within an associated portion of the specified circuitry when the voltage source supplying that associated portion degrades or fails, the power loss detection and recovery [abstract, col. 1, lines 9-15 and col. 15, claim 1] comprising:

- circuitry adapted to store data signals, data processing means for reading and
writing stored data signals [col. 15, claim 1] in supporting the continuing (i.e.,
data storage unit of a camera which includes a power failure protection system)
with the system operation as well as the redundant circuitry under power domain
[col. 3, lines 65-68].

As per claim 24:

Yamada further teaches:

- a sensor (i.e., detection mechanism) for detecting a power loss in the digital
image capture device [abstract, fig. 1; col. 2, lines 20-31 and col. 7, claim 1];
- the sensor detected a power loss during the memory access operation [fig. 1;
col. 2, lines 20-31; col. 4, lines 17-36; and col. 7, claim 1].

Yamada does not explicitly address:

- a powerdown sequence.

However, Yamada does disclose capability of:

- a data storage unit of a camera which includes a power failure protection
system which ensures that data written into the data storage unit, during the
occurrence of power failure [abstract, col. 1, lines 5-9; and col. 7, claim 1]
comprising:

- a mechanism for detecting cut off of power prior to actual cut off and backup power source [col. 2, lines 20-31 and col. 5, lines 39-68].

In addition, Byers explicitly teaches:

- A power loss detection and recovery circuit for detecting voltage degradation or voltage loss of one or more voltage sources supplying specified circuitry, and for disabling circuit activity within an associated portion of the specified circuitry when the voltage source supplying that associated portion degrades or fails, the power loss detection and recovery [abstract, col. 1, lines 9-15 and col. 15, claim 1] comprising:

- a lock and disable circuit used to powerdown device/system to prevent loss of data [abstract, col. 9, lines 13-55].

Therefore, it would have been obvious to a person having ordinary skill in the art at the time of Applicant's invention to first realizing Yamada's ***mechanism for detecting cut off of power prior to actual cut off and backup power source*** as being the *powerdown sequence* as claimed by Applicant. This is because Yamada's data storage unit of a camera which includes a power failure protection system explicitly performed data failure detection and recovery (i.e., ***fail-over***) from data storage and/or redundant memory via ***continuously access memory operation*** functionality. By utilizing these capabilities, the image capture device (i.e., ***camera***) can be directed or redirected promptly and functioned properly during failure recovery process in

supporting the system operation; second, by applying the lock and disable circuit used

to **_powerdown device/system to prevent loss of data_** as taught by Byers in

conjunction with the data storage unit of a camera which includes a power failure

protection system which ensures that data written into the data storage unit, during the

occurrence of power failure as taught by Yamada, the data detection and recovery

image system within computing memory data storage can enhance its operation

performance, more specifically to ensuring the error detected, corrected, and replaced

in proper and efficient manner via its **_continuously access memory operation_**

functionality for the same reasons set forth as described in claim 21, **supra.**

<u>As per claims 25-28:</u>

Due to the similarity of claims 25-28 to claims 21-24 except for a **_method_** of

preventing damage to media files within a digital image capture device instead of a

system of preventing damage to media files within a digital image capture device

comprising a sensor for detecting a power loss, a processor coupled to the sensor for

performing memory access operation, etc...; therefore, these claims are also rejected

under the same rationale applied against claims 21-24. **In addition, all of the**

limitations have been noted in the rejection as per claims 21-24. Such as, Yamada

does disclose capability of a data storage unit of a camera which includes a power

failure protection system which ensures that data written into the data storage unit,

during the occurrence of power failure [abstract, col. 1, lines 5-9; and col. 7, claim 1]

comprising data reading and writing successively to and from memory (i.e.,

continuously access memory operation) in supporting the camera data operation via data counting process [col. 4, lines 5-43 and col. 7, claim 1].

As per claims 29-32:

These claims are the same as per claims 21-24. The only minor different is that these claims are directed to a **computer-readable medium** instead of the a ***system*** of preventing damage to media files within a digital image capture device comprising a sensor for detecting a power loss, a processor coupled to the sensor for performing memory access operation as described in claims 21-24. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that the **computer-readable medium** is a necessary item for such a multimedia system, more specifically, data digital image device system. Since the digital image system obviously needs a means for instruction or code means resided within the computer-readable medium for performing the data storing, receiving, transmitting operation via the processing capability. Therefore, these claims are also rejected under the same rationale applied against claims 21-24. Such as, Yamada does disclose capability of a data storage unit of a camera which includes a power failure protection system which ensures that data written into the data storage unit, during the occurrence of power failure [abstract, col. 1, lines 5-9; and col. 7, claim 1] comprising data reading and writing successively to and from memory (i.e., ***continuously access memory operation***) in supporting the camera data operation via data counting process [col. 4, lines 5-43 and col. 7, claim 1].

Allowable Subject Matter

14.   Original claims 1-20 in the patent 6,263,453 are allowable over the prior art of
record.

Conclusion

15.   The prior art made of record and not relied upon is considered pertinent to
applicant's disclosure.

16.   A shortened statutory period for response to this action is set to expired THREE
(3) months, ZERO days from the date of this letter. Failure to respond within the period
for response will cause the application to be abandoned. 35 U.S.C. 133.

17.   Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Dieu-Minh Le whose telephone number is (703)305-
9408. The examiner can normally be reached on Monday - Thursday from 8:30 AM to
6:30 PM.

        Any inquiry concerning this communication or earlier communications from the
examiner should be directed to Dieu-Minh Le whose telephone number is (571) 272-
3660. The examiner can normally be reached on Monday - Thursday from 8:30 AM to
5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571)272-3644. The Tech Center 2100 phone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dieu-Minh Thai Le/
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PRIMARY EXAMINER
ART UNIT 2114

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2/25/09